



# Senate

General Assembly

**File No. 71**

January Session, 2005

Substitute Senate Bill No. 200

*Senate, March 30, 2005*

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING REGISTRATION OF HOMEMAKER-COMPANION AGENCIES WITH THE DEPARTMENT OF CONSUMER PROTECTION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) As used in sections 1 to  
2 11, inclusive, of this act:

3 (1) "Certificate" means a certificate of registration issued under  
4 section 3 of this act.

5 (2) "Commissioner" means the Commissioner of Consumer  
6 Protection or any person designated by the commissioner to  
7 administer and enforce the provisions of sections 1 to 11, inclusive, of  
8 this act.

9 (3) "Companion services" means nonmedical, basic supervision  
10 services to ensure the well-being and safety of a person in such  
11 person's home on a short-term basis.

12 (4) "Homemaker services" means nonmedical, supportive services  
13 that ensure a safe and healthy environment for a person in such  
14 person's home, such services to include assistance with personal  
15 hygiene, cooking, household cleaning, laundry and other household  
16 chores.

17 (5) "Homemaker-companion agency" means any public or private  
18 organization, employing one or more persons that is engaged in the  
19 business of providing companion services or homemaker services.  
20 Homemaker-companion agency shall not include a home health care  
21 agency, as defined in subsection (d) of section 19a-490 of the general  
22 statutes, or a homemaker-home health aide agency, as defined in  
23 subsection (e) of section 19a-940 of the general statutes.

24 (6) "Service plan" means a written document provided by a  
25 homemaker-companion agency to a person utilizing services provided  
26 by such agency, that specifies the scope, type, frequency and duration  
27 of homemaker or companion services that are to be provided by such  
28 agency for the benefit of the person.

29 Sec. 2. (NEW) (*Effective October 1, 2005*) No person acting  
30 individually or jointly with any other person shall establish, conduct,  
31 operate or maintain a homemaker-companion agency in this state  
32 without first obtaining a certificate of registration from the  
33 Commissioner of Consumer Protection pursuant to section 3 of this  
34 act.

35 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) Any person seeking a  
36 certificate of registration as a homemaker-companion agency shall  
37 apply to the Commissioner of Consumer Protection, in writing, on a  
38 form provided by the commissioner. The application shall include the  
39 applicant's name, residence address, business address, business  
40 telephone number and such other information as the commissioner  
41 may require. An applicant shall also be required to certify under oath  
42 to the commissioner that: (1) Such agency complies with the  
43 requirements of section 9 of this act concerning employee state  
44 criminal history records checks, (2) such agency provides all persons

45 receiving homemaker or companion services with a written  
46 individualized contract or service plan that specifically identifies the  
47 scope, type, frequency and duration of homemaker or companion  
48 services provided by the agency to the person, and (3) that all records  
49 maintained by such agency shall be open, at all reasonable hours, for  
50 inspection, copying or audit by the commissioner.

51 (b) Each application for a certificate of registration as a homemaker-  
52 companion agency shall be accompanied by a fee of three hundred  
53 dollars.

54 (c) Upon the failure by a homemaker-companion agency to comply  
55 with the registration provisions of this section, the Attorney General, at  
56 the request of the Commissioner of Consumer Protection, is authorized  
57 to apply in the name of the state of Connecticut to the Superior Court  
58 for an order temporarily or permanently restraining and enjoining a  
59 homemaker-companion agency from continuing to do business in the  
60 state.

61 Sec. 4. (NEW) (*Effective October 1, 2005*) Upon receipt of a completed  
62 application and fee, the Commissioner of Consumer Protection shall  
63 issue and deliver to the applicant a certificate to engage in the business  
64 for which the application was made; or refuse to issue the certificate.  
65 The commissioner may suspend, revoke or refuse to issue or renew  
66 any certificate issued under sections 1 to 11, inclusive, of this act or  
67 may place a registrant on probation or issue a letter of reprimand. No  
68 application for the reinstatement of a certificate which has been  
69 revoked shall be accepted by the commissioner within one year after  
70 the date of such revocation.

71 Sec. 5. (NEW) (*Effective October 1, 2005*) (a) Upon refusal to issue or  
72 renew a certificate, the Commissioner of Consumer Protection shall  
73 notify the applicant of the denial and of the applicant's right to request  
74 a hearing within ten days from the date of receipt of the notice of  
75 denial.

76 (b) If the applicant requests a hearing within such ten days, the

77 commissioner shall give notice of the grounds for the commissioner's  
78 refusal and shall conduct a hearing concerning such refusal in  
79 accordance with the provisions of chapter 54 of the general statutes  
80 concerning contested cases.

81 (c) If the commissioner's denial of a certificate is sustained after such  
82 hearing, an applicant may make new application not less than one year  
83 after the date on which such denial was sustained.

84 Sec. 6. (NEW) (*Effective October 1, 2005*) (a) The Commissioner of  
85 Consumer Protection, at all reasonable hours, may inspect, copy or  
86 audit all records maintained by such agency. The commissioner may  
87 conduct investigations and hold hearings on any matter under the  
88 provisions of sections 1 to 11, inclusive, of this act. The commissioner  
89 may issue subpoenas, administer oaths, compel testimony and order  
90 the production of books, records and documents. If any person refuses  
91 to appear, to testify or to produce any book, record, paper or document  
92 when so ordered, upon application of the commissioner, a judge of the  
93 Superior Court may make such order as may be appropriate to aid in  
94 the enforcement of this section.

95 (b) The Attorney General, at the request of the commissioner, is  
96 authorized to apply in the name of the state of Connecticut to the  
97 Superior Court for an order temporarily or permanently restraining  
98 and enjoining any person from violating any provision of sections 1 to  
99 11, inclusive, of this act.

100 Sec. 7. (NEW) (*Effective October 1, 2005*) (a) The Commissioner of  
101 Consumer Protection may revoke, suspend or refuse to issue or renew  
102 any certificate of registration as a homemaker-companion agency or  
103 place an agency on probation or issue a letter of reprimand for: (1)  
104 Conduct by the agency, or by an employee of the agency while in the  
105 course of employment, of a character likely to mislead, deceive or  
106 defraud the public or the commissioner; or (2) engaging in any  
107 untruthful or misleading advertising.

108 (b) The commissioner shall not revoke or suspend any certificate of

109 registration except upon notice and hearing in accordance with chapter  
110 54 of the general statutes.

111 Sec. 8. (NEW) (*Effective October 1, 2005*) (a) Each person obtaining a  
112 homemaker-companion agency certificate of registration shall: (1)  
113 Exhibit the agency's certificate of registration upon request by any  
114 interested party, (2) state in any advertisement the fact that the agency  
115 is registered, and (3) include the agency's registration number in any  
116 advertisement.

117 (b) No person shall: (1) Present or attempt to present, as such  
118 person's own, the certificate of another, (2) knowingly give false  
119 evidence of a material nature to the Commissioner of Consumer  
120 Protection for the purpose of procuring a certificate, (3) represent  
121 himself or herself falsely as, or impersonate, a registered homemaker-  
122 companion agency, (4) use or attempt to use a certificate which has  
123 expired or which has been suspended or revoked, (5) offer to provide  
124 homemaker or companion services without having a current certificate  
125 of registration under the provisions of sections 1 to 11, inclusive, of this  
126 act, or (6) represent in any manner that such person's registration  
127 constitutes an endorsement by the commissioner of the quality of  
128 services provided by such person.

129 (c) In addition to any other remedy provided for in sections 3 to 7,  
130 inclusive, of this act, any person who violates any provision of  
131 subsection (b) of this section, shall be guilty of a class B misdemeanor.

132 (d) Certificates issued to a homemaker-companion agency shall not  
133 be transferable or assignable.

134 (e) All certificates issued under the provisions of sections 1 to 11,  
135 inclusive, of this act shall expire annually. The fee for renewal of a  
136 certificate shall be the same as the fee charged for an original  
137 application. Fees collected pursuant to the issuance of a certificate or  
138 renewal of a certificate shall, upon deposit in the General Fund, be  
139 credited to the Department of Consumer Protection for personal  
140 services.

141 (f) Failure to receive a notice of expiration of registration or a  
142 renewal application shall not exempt a homemaker-companion agency  
143 from the obligation to renew.

144 Sec. 9. (NEW) (*Effective October 1, 2005*) (a) Any homemaker-  
145 companion agency shall require that any current or prospective  
146 employee of such agency shall submit to a state criminal history  
147 records check. The criminal history records check required by this  
148 section shall be conducted in accordance with section 29-17a of the  
149 general statutes, and the costs incurred for such check shall be paid by  
150 the homemaker-companion agency.

151 (b) If a homemaker-companion agency receives notice of a state  
152 criminal history records check concerning a current or prospective  
153 employee, the agency shall make its determination concerning the  
154 employment status of such person based on: (1) The level and  
155 seriousness of the crime; (2) when the crime was committed; (3) the age  
156 of the current or prospective employee at the time the crime was  
157 committed; (4) the circumstances surrounding the crime; (5) the  
158 relationship between the crime and the current or prospective  
159 employee's duties as a direct care provider; and (6) the current or  
160 prospective employee's criminal and corrections record since the  
161 crime.

162 Sec. 10. (NEW) (*Effective October 1, 2005*) A homemaker-companion  
163 agency shall not provide homemaker services or companion services to  
164 any person, unless prior to providing any such services, the agency has  
165 provided the person who is to receive the services with a written  
166 contract or service plan that prescribes the scope, type, frequency,  
167 duration and cost of the services to be provided by the agency, and  
168 such contract or service plan is accepted and signed by the person who  
169 is to receive the services. In addition, any contract or service plan  
170 provided by a homemaker-companion agency to a person receiving  
171 services shall also provide notice (1) of the person's right to request  
172 changes to, or review of the contract or service plan, (2) that all the  
173 employees of such agency have submitted to a state criminal history

174 records check, and (3) that such agency's records are available for  
 175 inspection or audit by the Department of Consumer Protection.

176 Sec. 11. (NEW) (*Effective October 1, 2005*) The Commissioner of  
 177 Consumer Protection shall adopt regulations, in accordance with  
 178 chapter 54 of the general statutes, for purposes of sections 1 to 11,  
 179 inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	New section
Sec. 11	<i>October 1, 2005</i>	New section

***Statement of Legislative Commissioners:***

In section 7(a) after the word "agency" the words "or place an agency" were added to make the section consistent with other registration powers and duties ascribed to the Commissioner of Consumer Protection.

**AGE**      *Joint Favorable C/R*

GL

**GL**      *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Public Safety, Dept.; Judicial Dept.	GF - Revenue Gain	Less than 50,000	Less than 50,000
Judicial Dept.; Correction, Dept.	GF - Cost	Potential	Potential
Attorney General	GF - None	None	None
Consumer Protection, Dept.	DCP Funding - Revenue Gain	Less than 50,000	Less than 50,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill requires homemaker-companion agencies to register with the Department of Consumer Protection (DCP) following certain application procedures, including an initial application fee of \$300 and a renewal application fee of \$300. Assuming approximately 150 homemaker-companion agencies register with DCP under the bill, the receipt of new license application fees would result in a revenue gain of \$45,000 to the state.

Under the bill, a homemaker-companion agency must require its current and prospective employees to a state criminal history records check conducted by the Department of Public Safety. Since each background check costs \$25, this would result in a revenue gain to the state.

Additionally, the bill allows the commissioner to refuse to issue or renew a certificate, as long as he notifies the applicant of such denial and the right to request a hearing. The bill also establishes procedures under which an applicant can request a hearing in regards to the denial of an issue of certification. Furthermore, the bill gives the DCP commissioner the right to inspect, copy, or audit all of the homemaker-companion agency's records at all reasonable hours. The bill states that all



application fees received for licensing homemaker-companion agencies must be deposited into the General Fund and credited to DCP for personal services. Assuming that the approximately 150 homemaker-companion agencies are required to register with DCP as a result of the bill, DCP would be able to accommodate the workload impact of the bill within available resources.

Furthermore, the bill makes it a crime, designated as a Class B misdemeanor, for any person to provide companion or homemaker services without being registered, or to make certain misrepresentations (such as impersonating or representing himself or herself falsely as a registered homemaker-companion agency). Any person who violates any one of the specific provisions listed in the bill is subject to a fine of up to \$1,000, up to six months in prison, or both.

It is anticipated that few offenses would be prosecuted each year and, consequently, any revenue gain from criminal fines under the bill would be minimal. To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community.

On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

The Office of the Attorney General (OAG) is authorized under the bill, at the request of the commissioner of the Department of Consumer Protection, to apply to the Superior Court for a temporary or permanent order restraining and enjoining anyone from violating any of the bill's provisions. The OAG could accommodate this duty without requiring additional resources.

**OLR Bill Analysis**

sSB 200

**AN ACT CONCERNING REGISTRATION OF HOMEMAKER-COMPANION AGENCIES WITH THE DEPARTMENT OF CONSUMER PROTECTION****SUMMARY:**

This bill requires homemaker-companion agencies to register with the Department of Consumer Protection (DCP). It specifies application procedures and gives the DCP commissioner authority to suspend, revoke, or refuse to issue the certificate of registration or take other disciplinary measures in response to violations of the bill. It requires these agencies to pay an initial \$300 application fee and a \$300 annual registration renewal fee.

Under the bill, these agencies must require their current and prospective employees to undergo state criminal history record checks and take specified factors into account when making employment decisions based on the checks. The agencies must provide their clients with written individualized contracts or service plans that identify the services' scope, type, frequency, and duration. They must also make their records accessible to DCP. The bill makes it a Class B misdemeanor to provide such services without being registered or to make certain misrepresentations.

The bill requires the commissioner to adopt regulations to carry out its provisions.

EFFECTIVE DATE: October 1, 2005

**HOMEMAKER-COMPANION AGENCIES**

The bill defines a "homemaker-companion agency" as any public or private organization with one or more employees that is engaged in the business of providing companion or homemaker services.

Under the bill, "companion services" means nonmedical, basic supervision services to ensure a person's well-being and safety in his home on a short-term basis. "Homemaker services" means

nonmedical, supportive services that ensure a safe and healthy environment for an individual in his home, including assistance with personal hygiene, cooking household cleaning, laundry, and other household chores.

Under the bill, a “homemaker-companion agency” excludes a home health care agency or a homemaker-home health aide agency, both of which must already be licensed with the Department of Public Health (DPH) and consequently are exempt from the bill’s DCP registration requirement (see BACKGROUND).

## **REGISTRATION PROCEDURES**

The bill prohibits anyone acting individually or jointly with another person from establishing, conducting, operating, or maintaining a homemaker-companion agency in the state without first obtaining a certificate of registration from DCP. To obtain the certificate, an applicant must apply to the DCP commissioner in writing, on a form the commissioner provides. The application must include the applicant’s name, residence and business addresses, business telephone number, and other information the commissioner requires. The applicant must also certify under oath that the agency:

1. complies with the bill’s requirements concerning state criminal history record checks;
2. provides all individuals receiving homemaker or companion services with a written individualized contract or service plan (see below) that specifically identifies the services’ scope, type, frequency, and duration; and
3. will keep the records it maintains open for inspection, copying, or audit by DCP at all reasonable hours.

Each application must be accompanied by a fee of \$300.

The bill defines “service plan” as a written document provided by a homemaker-companion agency to a client specifying the scope, type, frequency, and duration of homemaker or companion services that are to be provided by the agency to the client. The Connecticut Home Care Program for Elders currently requires such a written service plan for its clients who receive Medicaid or state assistance.

If an agency fails to comply with the bill's registration requirements, the bill authorizes the attorney general, at the DCP commissioner's request, to apply to the Superior Court for a temporary or permanent order to stop the agency from continuing to do business in the state.

### **DCP COMMISSIONER'S AUTHORITY**

After receiving a completed application and the \$300 fee, the commissioner must either issue and deliver the certificate of registration or refuse to issue it. The bill allows the commissioner to suspend, revoke, or refuse to issue or renew such a certificate, to place a registrant on probation, or to issue a letter of reprimand. It prohibits the commissioner from accepting an application to reinstate a revoked certificate within one year after the revocation date. If the commissioner refuses to issue or renew a certificate, he must notify the applicant of the denial and of the applicant's right to request a hearing within 10 days after receiving the denial notice. If the applicant requests such a hearing within the 10 days, the commissioner must give notice of the grounds for his refusal and must conduct the hearing in accordance with the Uniform Administrative Procedure Act. If the denial is sustained after the hearing, an applicant must wait one year after the date the denial was sustained before he can apply again.

The bill gives the DCP commissioner the right to inspect, copy, or audit all of the agency's records at all reasonable hours. It allows the commissioner to conduct investigations and hold hearings on any matter under this bill and to issue subpoenas, administer oaths, compel testimony, and order the agency to produce books, records, and documents. If anyone refuses to appear or otherwise comply with the commissioner's orders, a Superior Court judge, on the commissioner's application, may make an order appropriate to aid in the bill's enforcement. The bill also gives the attorney general, at the commissioner's request, authority to apply to the Superior Court for a temporary or permanent order restraining and enjoining anyone from violating any of the bill's provisions.

### **GROUND FOR REVOCATION, SUSPENSION, DENIAL, OR REFUSAL TO RENEW CERTIFICATE OF REGISTRATION**

The bill allows the commissioner to revoke, suspend, or refuse to issue or renew a certificate of registration, place an agency on probation, or issue a letter of reprimand on the following grounds: (1) conduct by

the agency (or an agency employee in the course of employment) that is likely to mislead, deceive, or defraud the public or the commissioner or (2) untruthful or misleading advertising. It prohibits the commissioner from revoking or suspending a certificate of registration except on notice and hearing consistent with the Uniform Administrative Procedure Act.

## **REGISTRANT'S DUTIES**

The bill requires anyone obtaining a certificate of registration to (1) exhibit it at the request of any interested party and (2) state the fact that the agency is registered and disclose its registration number in advertising.

The bill also prohibits any person from:

1. presenting or trying to present someone else's certificate as his own;
2. knowingly giving the commissioner false evidence of a material nature in order to procure a certificate;
3. representing himself or herself falsely as, or impersonating, a registered homemaker-companion agency;
4. using or trying to use an expired, suspended, or revoked certificate;
5. offering to provide homemaker or companion services without having a current certificate of registration; or
6. representing in any way that the person's registration constitutes the commissioner's endorsement of the quality of services the person provides.

In addition to other remedies elsewhere in the bill, violating these specific provisions constitutes a Class B misdemeanor, subject to a penalty of up to six months in prison, up to a \$1,000 fine, or both.

## **FEES AND RENEWALS**

The certificates of registration, which cannot be transferred or assigned to someone else, expire annually and require a \$300 renewal fee, which is the same as the initial fee for the original certificate. The fees

collected must be deposited in the General Fund and credited to DCP for personal services. Failure to receive an expiration notice or a renewal application does not exempt an agency from the obligation to renew the registration.

## **EMPLOYEE CRIMINAL HISTORY RECORDS CHECKS**

Under the bill, a homemaker-companion agency must require its current and prospective employees to submit to a state criminal history records check, which must be conducted consistent with current statutory procedures. The agency must pay the costs incurred for the state checks (currently \$25 per check). If the agency receives notice of a check on a current or prospective employee, it must make its decision concerning the person's employment status based on:

1. the level and seriousness of the crime,
2. when the crime was committed,
3. the person's age at the time of the crime,
4. the circumstances surrounding the crime,
5. the relationship between the crime and the person's duties as a direct care provider, and
6. the person's criminal and corrections record since the crime.

## **INDIVIDUALIZED CONTRACT OR SERVICE PLAN REQUIRED**

Under the bill, before providing homemaker or companion services to anyone, a homemaker-companion agency must first give the individual who is to receive the services a written contract or service plan that prescribes the services' scope, type, frequency, duration, and cost. Services cannot begin until the client accepts and signs the contract or service plan. The bill also requires the contract or service plan to provide notice (1) of the individual's right to request changes to it or to review it, (2) that all the agency's employees have submitted to a state criminal history records check, and (3) that the agency's records are available for inspection or audit by DCP.

## **BACKGROUND**

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***DPH-Licensed Home Health Care Agencies and Homemaker-Home Health Aide Agencies Defined***

Under the public health statutes a “home health care agency” is a public or private organization that provides professional nursing services as well as homemaker-home health aide services, physical therapy, speech therapy, occupational therapy, or medical social services available 24 hours a day, in the patient’s home or an equivalent environment. A “homemaker-home health agency,” under the public health statutes, means a public or private organization, other than a home health care agency, that provides supportive services such as assistance with personal hygiene, dressing, feeding, and incidental household tasks essential to achieving adequate household and family management in the patient’s home or in an equivalent environment. These supportive services must be provided under the supervision of a registered nurse. Homemaker-home health aide services, under the public health law, do not include such services provided to assist individuals with activities of daily living for people who have a disease or condition that is chronic and stable as determined by a physician (as for instance in an assisted living facility, where services can be provided only by a DPH-licensed assisted living services agency).

**COMMITTEE ACTION**

## Human Services Committee

Joint Favorable Report

Yea 12      Nay 0

## General Law Committee

Joint Favorable Report

Yea 14      Nay 0